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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,272	10/17/2000	Jeffrey W. Pattee	33-XZ-5745	3671
7590	11/20/2006		EXAMINER	
Dean D Small McAndrews Held & Malloy Ltd 500 West Madison Street 34th Floor Chicago, IL 60661			WILLIAMS, THOMAS J	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/690,272	PATTEE ET AL.	
	Examiner	Art Unit	
	Thomas J. Williams	3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 September 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,5,6,9 and 10 is/are rejected.
- 7) Claim(s) 2-4,7 and 8 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 September 2006 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

1. Acknowledgment is made in the receipt of the amendment filed September 27, 2006.

Drawings

2. The drawings were received on September 27, 2006. These drawings are accepted.

Specification

3. The disclosure is objected to because of the following informalities: the claims must commence on a separate sheet. Currently a portion of the specification appears on the first sheet of claims filed October 17, 2000, as such a substitute specification and new sheet of claims must be submitted in the next correspondence. The next submission will be considered non-compliant by the Office if the above issues are not corrected.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by US 3,422,929 to Oja et al.

Re-claim 1, Oja et al. disclose a braking apparatus, comprising: a locking mechanism for a mobile medical device, a pedal 37 moves the locking mechanism between a locked and unlocked position, a steering (or guide) mechanism (interpreted as either rod 18 or 35) with a linkage member 23/29 is attached to the pedal, the steering mechanism defines a path along

which the linkage travels as the pedal is moved between the locked and unlocked positions, see figures 2 and 4.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 5, 6, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2,922,494 to Clark, Jr.

Re-claim 1, Clark, Jr. teaches a brake apparatus, comprising: a pedal connected to a locking mechanism 18 for moving the locking mechanism between a locked (figure 4) and unlocked positions (figure 3), a steering mechanism has a linkage member (note various links) attached to the pedal, the steering mechanism defined a path (such as a longitudinal path) along which the linkage member travels as the pedal is moved between the locked and unlocked positions. However, Clark, Jr. fails to specifically teach the brake apparatus used with a mobile

medical device. Clark, Jr. does in fact teach the brake apparatus used on wheeled vehicles and is shown attached to a table like structure. This could easily represent a patient table, as known in the art.

As such it would have been obvious to one of ordinary skill in the art to have utilized the brake apparatus of Clark, Jr. on a mobile medical device, since the device is clearly capable for use on any wheeled vehicle.

Re-claim 5, the locking mechanism is a plunger assembly having a slotted piston 24 for receiving a pin (pin 45 is received in the slotted piston 24) for engaging a spring 36 located within the periphery of the piston, see figure 6. Piston 24 has a slot 52a.

Re-claim 6, Clark, Jr. teaches an apparatus, comprising: a braking apparatus; a pedal for engaging or disengaging the braking apparatus; a pedal housing connected to the apparatus, the housing has a shaft (such as 34) for connecting the pedal to the housing, the shaft is connected to first and second linkage members (such as links 31/32/46/47), the first linkage steers or guides the pedal to a rest position in either a locked or unlocked position, a second linkage member (such as 46/47) engages or disengages a locking mechanism in coordination with the pedal in one of the locked and unlocked position. However, Clark, Jr. fails to specifically teach the brake apparatus used with a mobile medical device. Clark, Jr. does in fact teach that the brake apparatus is used on wheeled vehicles and is shown attached to a table like structure. This could easily represent a patient table, as known in the art.

As such it would have been obvious to one of ordinary skill in the art to have utilized the brake apparatus of Clark, Jr. on a mobile medical device, since the device is clearly capable for use on any wheeled vehicle.

Re-claims 9 and 10, the locking mechanism includes a plunger assembly, the assembly has a slotted piston for receiving a pin for engaging a spring within the periphery of the plunger.

Allowable Subject Matter

9. Claims 2-4, 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments filed September 27, 2006 have been fully considered but they are not persuasive. With regards to Oja et al., as stated above the steering mechanism in Oja et al. is broadly interpreted as either rod element 18 or rod element 35, since both stationary rods define a path along which the linkage travels. In particular linkage 23 moves along a path defined by rod 18, see column 3 lines 29-37. With regards to Clark, Jr., the applicant has failed to identify what aspect of the invention for which the examiner has taken official notice. As stated in the rejection the table like structure in Clark, Jr. is interpreted as representing a patient table, otherwise known as a stretcher, as known in the art. In short the examiner believes that one of ordinary skill in the art would have recognized the equivalence between a patient table and the table like structure illustrated in Clark, Jr. However, in the attempt to advance prosecution history, the applicant's attention is directed to Oja et al., wherein it is clearly illustrated a patient table (or stretcher) as known in the art. Furthermore, this stretcher is equipped with a foot operated brake. As such it would appear to the examiner that one of ordinary skill in the art would have been capable of attaching the brake assembly of Clark, Jr. to a patient table, since the use of such brake assemblies on patient tables is known. As such the affidavit is not required

since the search did in fact reveal several pieces of art wherein patient tables with brake assemblies attached thereto are known. As stated above element 45 is interpreted as the pin that is received in slot 52a, this element engages a spring when the assembly is in the retracted condition, see figure 6.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is 571-272-7128. The examiner can normally be reached on Tuesday from 1:00 PM to 7:00 PM and Wednesday-Friday from 6:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan, can be reached at 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-6584.

TJW

November 15, 2006

**THOMAS J. WILLIAMS
PRIMARY EXAMINER**

Thomas Williams
AU 3683
1115-06